IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.220 OF 1992.

Sandhya Harishchandra Rumde
& ors. : Appellants.

versus

Eknath Shankar Joshi & Anr. : Respondents.

Mr.D.B.Sawant for the appellants.
Mr.S.R.Singh for Respondent No.2.

CORAM : D.G.DESHPANDE,J.

DATED : 4th April 2005.

ORAL ORDER

1. This appeal is filed by the original claimant for enhancement of compensation. The Motor Accidents Claims Tribunal for Greater Bombay, before whom a claim petition was filed and claim was enhanced to Rs.One lac from Rs.Twenty Five Thousand, awarded only Rs.9,097/-

only and, therefore, this appeal. The counsel for the appellants contended that the deceased was a clerk in the Railway. He was 52 years of age at the time of accident. Due to accident he suffered injuries. He was hospitalised for two months. The accident took place on 11.8.1981. He was in hospital up to 16.10.1981. He joined his duty on 17.10.1981. But again on 22.11.1981 he had to proceed on leave and on 12.2.1982 he died as a result of diabetes coma and tuberculosis. The claimants examined the doctor who opined that the cause of death as per the post mortem examination was diabetes coma with pulmonary tuberculosis with celulitis of left leg and this may be due to the injuries sustained. The tribunal awarded only meagre sum of Rs.9000/- and odd, even though there was evidence that he was in hospital for two months. During the said period the deceased was on leave with salary. While awarding the amount of Rs.9097/- the tribunal took into consideration the following items :-

1. Expenses of medicines and doctor’s fees Rs.1000/-

2.	Taxi Fare for visit to the hospital	Rs.140/-
3.	Taxi hired to go to the office during convalescence	Rs.500/;-
4.	Ambulance charges for funeral expenses	Rs.2500/-
5.	Hospital Charges	Rs.164/-
		========
		Rs.4304/-

Tribunal then took into consideration leave period of the claimant of 147 days and loss of salary to the extent of Rs.4,793/- and, therefore, tribunal awarded Rs.9097/- only.

2. It is true that death is not the direct result of the accident. But nothing is awarded to the claimant for the mental agony, pains and sufferings and, therefore, an amount of Rs.25,000/- in all including whatever is awarded by the tribunal would be sufficient. Therefore in the circumstances the impugned order is required to be modified. Hence the order :-

:ORDER:

The appeal is allowed.

The order of the tribunal awarding compensation of Rs.9097/- is modified. The appellants will be entitled to Rs.25,000/-.

No order as to costs.

[D.G.DESHPANDE]

04/04/2005 JUDGE.